

**ORIGINAL**

Arizona Corporation Commission  
**DOCKETED**



J. Alan Smith, Private Citizen  
8166 Barranca Rd.  
Payson, Arizona 85541  
(928) 302-8341 Hm.  
(928) 951-2083 Wk.  
In Propria Persona

AUG 07 2012

DOCKETED BY *JM*

**Before the Arizona Corporation Commission**

**COMMISSIONERS**

Gary Pierce, Chairman  
Paul Newman, Commissioner  
Brenda Burns, Commissioner  
Bob Stump, Commissioner  
Sandra D. Kenndy, Commissioner

J. Alan Smith, Injured Party  
Complainant,

vs.

PAYSON WATER CO. INC./BROOKE  
UTILITIES INC.  
Respondents.

DOCKET NO. W-03514A-12-0007

**NOTICE OF COMPLAINANT'S  
FOURTH DISCOVERY AND  
DISCLOSURE  
ARCP RULE 26.1 AND  
AAC RULE R14-3-109 et. Seq.**

2012 AUG 7 8 18 AM  
RECEIVED  
AZ CORP COMMISSION  
DOCKET CONTROL

**NOW COMES**, the Complainant J. Alan Smith, to give Notice to the Commission and the Respondents of the Complainant's compliance with Rules of Discovery and Disclosure in these matters before the Commission. The Complainant makes presentment of his Fourth Set of Discovery and Disclosure of Witnesses and Evidence and reserves the right to Supplement Discovery and Disclosure with additional documentation, reference and evidence. The Complainant discloses the following:

**TRIAL EXHIBITS**

**INDEX OF EXHIBITS**

- Transcript of Telephonic Interview with Jim Pearson July 17, 2012 and Affidavit of Alan Smith. Pages 1 to 3
- Transcript of Telephonic Interview with Jim Pearson July 25, 2012 and Affidavit of Alan Smith. Pages 4 to 6
- Transcript of Personal Interview with Jim Pearson July 17, 2012 and Affidavits of Alan Smith and Richard Burt. Pages 7 to 15

Affidavit of Dennis B. Tresca.	Page 16
Page 9 of Public Presentation of August 4, 2011 titled MdC Supplemental Water Cost Analysis-Daily Water Hauling and dated July 26, 2011.	Pages 17 to 18
BUI Mesa del Cagallo Water System Water Augmentation Charges Calculation June 2011 to July 2011 (first and last pages).	Pages 19 to 20
Exerts from, Staff Report, Docket No. W-03514A-10-0116 and 0117 dated, May 10, 2010.	Pages 21 to 33
Exerts from, Decision No. 65914.	Pages 34 to 37
USGS Water Science School USGS Web Site Water consumption of average Person on a daily basis	Pages 38 to 39
Better Business Bureau Web Site Ratings and Reviews of Brooke Utilities, Inc.	Pages 40 to 47
Additional Analysis of Payson Water Co. 2011 MdC Water Augmentation Worksheet dated June 7, 2012 and The Town of Payson Water Department's Customer Maintenance-Master View for Act. No. 00009634	Pages 48 to 49

**WHEREFORE**, Notice is given to the Commission and the Respondents that the Complainant has filed his Fourth Set of Discovery and Disclosure with Trial Exhibits Attached herewith and Supplemental Disclosure to follow shortly.

**Respectfully submitted** this 7<sup>th</sup> day of August, 2012

  
 \_\_\_\_\_  
 J. Alan Smith, in Propria Persona

**CERTIFICATE OF SERVICE**

The Original and 13 copies of the foregoing Motion have been mailed this 7<sup>th</sup> day of August, 2012 to the following:

DOCKET CONTROL  
**ARIZONA CORPORATION COMMISSION**  
 1200 West Washington Street  
 Phoenix, Arizona 85007

Copies of the foregoing Motion have been mailed this 7<sup>th</sup> day of August, 2012 to the following:

Robert T. Hardcastle  
 P. O. Box 82218  
 Bakersfield, Ca. 93380

By: J.A.S.

**INTERVIEW WITH JIM PEARSON VIA TELEPHONIC CONVERSATION**  
**Tuesday, July 17, 2012 at approximately 3:00 p.m.**

In attendance were Alan Smith and Jim Pearson.

**Question No. 1:** Alan – I filed a document with the ACC and I wanted to know if you would be available in the next couple of weeks for a deposition hearing

Jim – AHHH...maybe I am working in Texas right now what its regarding

**Question No. 2:** Alan – It's regarding the water you hauled this summer into the community of Mesa Del

Jim – Well what about it

**Question No. 3:** Alan – Well I wanted

Jim – I already did one from Brookes what's the difference?

**Question No. 4:** Alan – That difference was Brookes was the company and iam the consumer

Jim – Yea so what do you wanna' know?

**Question No. 5:** Alan – Well I wanted to know if you wanted to do a deposition with me?

Jim – No not really I don't even know what the reason would be for

**Question No. 6:** Alan- Well the reason would be for I wanted to know if the hauling log you presented to Hardcastle would be accurate vs the haul logs you did at home yourself personally through Martin yourself or Chase when you hauled water those kind of questions

Jim – Well I can just assure you that everything we did was accurate so that's about all I could say

**Question No. 7:** Alan- So you are going to be in Texas and not available for a deposition is that correct?

Jim – Yea when is it scheduled for?

**Question No. 8:** Alan- Well that's why I am calling you is to set up a hearing just like you did with Mr. Hardcastle in Winslow this is behind the same idea when I could set up a time to go over these records with you

Jim – Well like I said I just don't see the sense in it everything we did down there is accurate forever I don't know what your argument is with Brooke but Ahhh, nothing we ever done we have

turned in our invoice is accurate so I don't know what you are trying to prove so I think your just wasting your time I mean and just a waste of my time

**Question No. 9:** Alan- I don't think I am wasting your time because I have looked at your invoices and I have questions and that's not a waste of my time because I pay for that is that not correct.

Jim – AHHH... I have no idea that between you and Brookes and what but as far as what water we have hauled there is nothing incorrect about that so anyhow

**Question No. 10:** Alan- Are you going to be in Texas for a couple of weeks or three or four weeks when do you think you are gonna' be back.

Jim – Uhh I am not sure it's kinda' of dependant on the Job I don't have a plan but I will be here for at least 2 weeks

**Question No. 11:** Alan- Well regardless whether you think it's a waste of time or whether I think it's a waste of time, I still have an option under the laws of Arizona to depose you and ask you questions regarding that. That is what I would like to do. I don't really want to inconvenience you or cause you problems but at the same time I do have a right under the Arizona Laws to depose you and ask you questions and if its reasonable and within time I would really greatly appreciate it and your help into talking about this if you could set up a time or something

Jim – Uhh well I can't tell you anything right now but time wise so I am not going to be available to uhh. To me uhh, I don't know that is all I can tell you

**Question No. 12:** Alan – When do you think you would be able to know.

Jim – I could just call you when I am on my way back to Arizona.

**Question No. 13:** Alan- Well I would appreciate it if you would do that

Jim- Ok I will do that yea I can do that

**Question No. 14:** Alan- Well thanks Jim

J. Alan Smith  
8166 Barranca Rd.  
Payson, Arizona 85541  
Telephone: (928) 951-2083

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**AFFIDAVIT**

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State of Arizona        )  
                                  )       **Subscribed Sworn Sealed**  
County of Gila         )

Now comes J. Alan Smith, a Private Citizen of Arizona, proceeding in Propria Persona, "without prejudice" to any of My unalienable Rights; that I do hereby solemnly affirm under oath that I am the Affiant stated herein, having personal knowledge of the facts herein stated, and now deposes and says:

- 1) That on Thursday July 17, 2012; I, J. Alan Smith contacted Mr. Jim Pearson of Pearson Water Co. in Williams, Arizona to determine if, I could set up a time with him to depose him or interview him at his home. The interview was recorded and typed up. A copy of that type written conversation is attached; and further,
- 2) That the type written text of that conversation is true, accurate and correct;

**Further, Affiant Sayeth Naught.**

**Signed and Sworn to with reservation of all My Unalienable Rights**

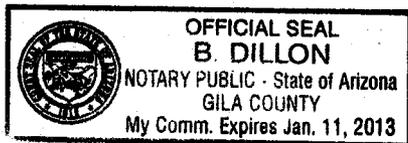
J. Alan Smith seal  
**Signature and Seal of Affiant, a Private  
Citizen of Arizona, supra**

8-06-12  
**Date of Signature**

Subscribed and sworn to before me, a Notary Public, this 6<sup>th</sup> day of August, 2012.

Seal of Notary:

B. Dillon  
**Signature of Notary**



**INTERVIEW WITH JIM PEARSON VIA TELEPHONIC CONVERSATION**  
**Wednesday, July 25, 2012 at approximately 8:45 p.m.**

In attendance were Alan Smith and Jim Pearson.

**Question No. 1:** Alan – Jim this is Alan and I talked to you last week about taking a deposition and ah I understand that your are back and that you were served today

Jim – AHHH...I don't know I haven't been home yet

**Question No. 2:** Alan – You haven't been home yet you mean you weren't served at home today with a subpoena

Jim – No

**Question No. 3:** Alan – Well hear is what I am asking from you I am just asking you to tell the truth I am not after you my complaint was filed against Payson Water Co/Brooke Utilities right we now you hauled the water were are not after you we just want you to tell the truth about what you did as far as the water hauling goes

Jim – Yea well I thought I had done that already

**Question No. 4:** Alan – So you are still in Texas you haven't got back yet?

Jim – I am not in Texas right now but I am going back I am in Phoenix right now

**Question No. 5:** Alan – Ohh! you're in Phoenix right now?

Jim – Uhuh Huh...

**Question No. 6:** Alan- O.K. are you gonna be available for the hearing are you gonna show up

Jim – Uhuhuh I am not planning on it but I will see what day of the week is that

**Question No. 7:** Alan- It's August 7<sup>th</sup> it a Tuesday 10:00 am

Jim – Uhuh I doubt that I will be here well my schedule is I am in Texas on those days that day so any way I don't know I don't mind trying to accommodate ya to get everything straightened out I have already told Brookes whatever thy wanted to know so if you tell me what you wanted know I will tell ya uh I don't know but its between you and Brooke Utilities

**Question No. 8:** Alan- Well its its records your hauling records you know you showing 19 hours for hauling things like that we trying to uh where you are hauling the water too

Jim – Well that's all on the logs that Brookes has

**Question No. 9:** Alan- But we paid for that and that the community paid for that water correct

Jim – AHHH... of course yea

Alan- O.K.

Jim – But still that has nothing to do with me its still between whatever Brookes charged you and what you guys paid all those you know all the bills I sent to Brookes has to do with hourly it has nothing to do with water so how are they charging that and all that because it was approved by the Corporation Commission and that what and that what I don't see what your expecting to ah

**Question No. 10:** Well, part of that was that purchase that water from the Town of Payson also and we were charged for that purchase so the Gallons do matter and the hauling

Jim – O.K. that's fine but that's still between you and Brookes and has nothing to do with me

**Question No. 11:** Alan – Well your gallons on your manifest show that you hauled 71,700 gallons what we were charged for and we went back and looked and showed that you only hauled 6,000 gallons or so that were the confusion lies and that's why I wanted to talk to you about because I don't understand how you can put 71,000 gallons down on an invoice when you didn't haul 71,000 gallons because we paid for that water not just the hourly rate but also for the purchase of the water

Jim – Well that fine but I didn't put any gallons on the invoice they went off the meter

**Question No. 12:** Alan- So your invoices you didn't put the meter reads down on the invoices and then total and calculate the gallons

Jim- No I did not but I put down the meter readings because I didn't total anything because I didn't care about the gallons because I was being paid for the time

**Question No. 13:** Alan- Well anyway that's still some things we would like to talk about this is informal and I might not be able to use this for the hearing and I would appreciate you showing up for the hearing seeing how you are not going to show up for the deposition

Jim- Well let me get a little closer to the day and I might and I will find out whether or not I will be in Arizona.

Alan- O.K.

J. Alan Smith  
8166 Barranca Rd.  
Payson, Arizona 85541  
Telephone: (928) 951-2083

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**AFFIDAVIT**

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State of Arizona     )  
                                  )     **Subscribed Sworn Sealed**  
County of Gila        )

Now comes J. Alan Smith, a Private Citizen of Arizona, proceeding in Propria Persona, "without prejudice" to any of My unalienable Rights; that I do hereby solemnly affirm under oath that I am the Affiant stated herein, having personal knowledge of the facts herein stated, and now deposes and says:

- 1) That on Wednesday July 25, 2012; I, J. Alan Smith contacted Mr. Jim Pearson of Pearson Water Co. in Williams, Arizona to determine if, I could set up a time with him to depose him or interview him at his home. The conversation was recorded and typed up. A copy of that type written conversation is attached; and further,
- 2) That the type written text of that conversation is true, accurate and correct; and further,
- 3) That on July 25, 2011 at 7:36 p.m. Mr. Pearson was served with Two (2) Subpoenas at his home. (See: Notice of Service of Process Subpoenas on Jim Pearson and Pearson Water Co. mailed to Docket Control July 30, 2012).

**Further, Affiant Sayeth Naught.**

**Signed and Sworn to with reservation of all My Unalienable Rights**

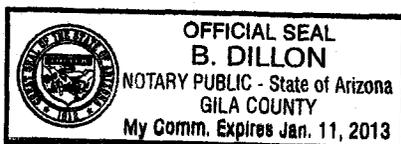
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Signature and Seal of Affiant, a Private  
Citizen of Arizona, supra

8-06-12  
Date of Signature

Subscribed and sworn to before me, a Notary Public, this 6<sup>th</sup> day of August, 2012.

Seal of Notary:

B. Dillon  
Signature of Notary



**INTERVIEW WITH JIM PEARSON**  
**July 26, 2012 at approximately 4:30 p.m. to 5:35 p. m.**

In attendance were Alan Smith, Richard M. Burt and Jim Pearson. This Interview was recorded.

**Question No. 1:** Alan -The invoice that you billed of \$15,900 to Hardcastle, can you help figure it out?

Jim -If you have a copy of all that I will help you figure it out.

**Question No. 2:** Alan - Is this your invoice dated 9-5-2011?

Jim - Yes I believe so.

**Question No. 3:** Alan -Where did the missing 24,100 gallons of water go?

Jim - That probably could have been hauled to East Verde.

**Question No. 4:** Alan - How many loads?

Jim - Billed separately to East Verde I don't know.

**Question No. 5:** Alan - Martin's trucking hauling invoice shows water billed to East Verde Park that we got from the ACC. Do you know what Martin did?

Jim - Yeah, all it was a copy sheet like this invoice. I billed it to East Verde but it's between you and Brooke's how they billed it to you.

**Question No. 6:** Richard -Invoices we have do not show what your truck took and hauled to MDC vs. East Verde.

Jim - Well that's still between you and Brooke's. In deposition to Hardcastle I told him I hauled to East Verde.

**Question No. 7:** Richard - Between May 1 and September 31, 2011, how many loads went to East Verde.

Jim - I say probably 6 to 8.

**Question No. 8:** Richard - So you estimate less than 10?

Jim - Yea

**Question No. 9:** Richard - How many water tankers do you have, more than 1?

Jim - Yea a couple of trailers.

**Question No. 10:** Richard – What is the capacity?

Jim – one 6,000 and one 6,300.

**Question No. 11:** Richard – How much water was hauled to MDC?

Jim – All that went through that meter.

**Question No. 12:** Alan – We have no invoices that show how much water went to East Verde. The invoices show all billed to MDC.

Jim – Look I could tell you if I could lookup invoices.

**Question No. 12:** Alan – The invoices you are looking for are on subpoena 8804, 8805, and the rest listed could be what you are looking for.

Jim- Do you have a copy of any of the invoices?

**Question No. 13:** Richard- I don't think we have a copy of any of the invoices just the amount charged and billed.

Jim- I don't know I will have to look for those invoices.

**Question No. 14:** Alan- When we received the calculations from the ACC there were no invoices just a calculation of \$16,000.00 dollars that is why we are trying to contact you to get invoices.

**Question No. 15:** Richard- We can't do an accurate computation because of missing data. What we do know is that many of the Mesa Del Residents were pretty well hard hit and the economy was bad and many of the residents could not even afford to pay that first June July Bill it was pretty brutal.

**Question No. 16:** Richard- If we were to give you a call with the actual invoices could you research them?

Jim- Yea, um.

**Question No. 17:** Richard- The actual travel time from Williams to Payson what is it?

Jim- 2 hours, we always's charge 4 hours travel time.

**Question No. 18:** Richard- After that it's 1.2 hours for the augmentation by Hardcatle to the ACC at \$150 per hour.

Jim- Well that might be when we are setting there and something happen that delays, the pump doesn't work like a neighbor complains and the Sherriff comes by and we set there we charge for all that time. That doesn't mean that exactly 1.2 hours per load but it would be pretty close.

**Question No. 19:** Richard- Hardcastle presented 1.2 hours to the ACC for the Tarrif.

Jim- Well that's what I am telling you if a valve breaks or something happens when we are setting there waiting we charge for that time.

**Question No. 20:** Richard- do your driver's stop and grab lunch for an hour?

Jim- We don't do that

**Question No. 21:** Alan- Do you guys pretty much haul around the clock?

Jim- Yea

**Question No. 22:** Alan- How long does it take to do 10 or 11 loads?

Jim- Well about 1 and a half hours a load about 10 loads would be about 15 hours.

**Question No. 23:** Richard- Were still trying to find the invoices hauled to East Verde that were charged to Mesa Del?

Jim- Well I will look do you have a fax #

**Question No. 24:** Richard- If we have additional questions on invoices could we fax you

Jim- Yes

**Question No. 25:** Richard- do you have any invoices?

Jim- All the invoices I have sent to Brooke's

**Question No. 26:** Richard- If you could help us pin down those invoices it sure would help

Alan- But you have not looked at subpoena yet?

Jim- I sure haven't yet but its around here somewhere when I got home my wife said somebody came by and left it, it's around here somewhere but I don't know where its' at.

**Question No. 27:** Alan- because what is on that is the invoices number and things like that.

Jim- Yeah, but here again I am telling you I will look through this stuff I will find whats easy if I look for it and don't and I don't find something that's on that thing there

**Question No. 28:** Richard- Brooke probably has it

Jim-Yeah

**Question No. 29:** Richard- If you can't find it can you just annotate on there

Jim- Yea

**Question No. 30:** Richard- How long have you been hauling for Brooke's?

Jim- Uhh we were hauling down there before Brooke's was there

**Question No. 31:** Richard- Did you have any problems with them at all.

Jim- Not really just like everybody else sometimes with Hardcastle it is

**Question No. 32:** Richard- When you haul who do you deal with Allred or Hardcastle?

Jim- Allred very seldom do I talk to Bob

**Question No. 33:** Richard- You mean Hardcastle?

Jim- Yea I very seldom talk to Hardcastle

**Question No. 34:** Richard- So you just use Allred?

Jim- Yea I just use Allred.

**Question No. 35:** Richard- So he just gives you instructions on the phone?

Jim- Yea well a lot of times he will tell me.

**Question No. 36:** Richard- And you can call him on the phone at his office if you have questions?

Jim- Uhh

**Question No. 37:** Richard- Do you have his office number by any chance?

Jim- Uhh well I probably have it on my phone but I don't have it its probably in my office somewhere.

**Question No. 38:** Alan- I have a question for you when you hauled water in 2009 and some of those invoices eons ago do you remember where Starlight Pines and Indian Creek is we never could figure out where Indian Creek is do you know where Indian Creek is at?

Jim- Uhh I am not sure that place on top of the hill where we use to haul water a lot the rest area down bellow that is where I think it is.

**Question No. 39:** Alan- On those invoices it shows Tonto Creek and Indian Creek and we did not know if you meant Tonto Basin.

Jim- Well I think Indian Creek is on the Road to Roosevelt at the rest area and Tonto Creek is by Gisela

**Question No. 40:** Alan- Where is Starlight Pines?

Jim- It's ahh 13 miles outside of Long Valley.

**Question No. 41:** Richard- So during those hauls you were hauling water from other sources other than the Town of Payson which was part of the reason for the augmentation charges to haul water but those charges weren't billed to the customers

Jim- Yea well I wouldn't know that anyway

Jim- So I will look at my invoices from May and September and get those to you and some of those I might not be able to find because Hardcastle has them.

**Question No. 42:** Richard- So any of those you cant find we will have to extract from Hardcastle?

Jim- Yea and I might have it but ahh I am kind of haphazard sometimes and cant find um

**Question No. 43:** Richard- If you cant find them its an indication that Hardcastle has them or may have them?

Jim- Yea but Hardcastle has them and sent them to the Corporation Commission to have the bills looked at.

**Question No. 44:** Richard- Well thats why we need those invoices because at one point we were told it was 150 and hour hauled as fast as you can but I don't haul as fast as he does and at 1.2 hours that's hard to compute

Jim- Well that's what the Corporation Commission 1.2 but here again its about an hour and a half and that's pretty consistent

**Question No. 45:** Alan- On some of those invoices there is a lot of time do you have a log book to show those hours or how many hours it took?

Jim- Well that's sure as hell not any of you business and that brings up a those kind of things an those are over hours which can bring up hours out of service and I am sure not as hell handing those things over.

**Question No. 46:** Richard- So you billed just those hours do you have to rent anything for the Truck to do something?

Jim- Uhh no we supply pumps and hoses unless or pump breaks down then we use theirs

**Question No. 47:** Richard- There would be know additional thing for the ACC as far as a rental goes just the hauling costs for charges is their?

Jim- No

**Question No. 48:** Alan- Do you guys have pumps on you trailers because I did not see I wet kit is it electronic?

Jim- No it's a power unit

**Question No. 49:** Alan- How long does it take to offload with your pump or was that a problem.

Jim- No last year Brooke's has a electric pump and we just used there pump most of the time in the prior years we just used our pumps most of the time it takes 30 to 35 minutes per load.

**Question No. 50:** Richard- Just out of curiosity I am not really familiar with that when you get to that Payson Water Department fire hydrant uh when you hook that up to your line is that pressure that fills your truck or is there a pump that fills your truck.

Jim- No it's the hydrant pressure.

**Question No. 51:** Richard- Do you know how many gallons it is per minute?

Jim- Ahh, right off the top of my head I don't remember but it's about 20 to 23 minutes

**Question No. 52:** Alan- So how long does it take to fill 6,000 gallons

Richard- No he said it was a 6,300 gallons tanker that took about 23 minutes

**Question No. 53:** Alan- Do you have a sight glass on you trailer to show when its full?

Jim- No usually I wait for it to come over to the top and let a few gallons come over the top but usually I wait around till I think it's about full.

**Question No. 54:** Richard- So that depends on operator experience

Jim- Yea

**Question No. 55:** Alan- what ever happened to Martin he disappeared on us.

Jim- Yea he went to North Dakota.

**Question No. 56:** Richard- Hardcastle stated that you ah got with some more contractors to make more money which he indicated why you were out of the picture.

Jim-Laughing uh naw, it's just that down there it was off and on again and the new job made it where I could not be dependable

**Question No. 57:** Richard- Were you ever instructed to haul water from Mesa Del Tanks

Jim- No nothing like that no nobody every hauled water out of Mesa Del

**Question No. 58:** Alan- I have a friend that lives in Deer Creek that saw the tanker that Martin used did he ever haul water out of there.

Jim- No we would have no reason to haul water out of there.

**Question No. 59:** Richard- So Martin hauled too.

Jim- No he never hauled for Brooks he just hauled for us when I couldn't make it down there but ahh he never hauled anywhere except out of Payson

**Question No. 60:** Alan- So no log books so I can see the hours you worked?

Jim- No and I don't have them anyway

**Question No. 61:** Richard - So they are with the books

Jim- Well there on the hauling logs

**Question No. 62:** Alan- Did you ever do pre-trip inspections or post trip inspections or anything like that?

Jim- Uh yea but then again I am not going to supply those I don't see how those are going to help

**Question No. 63:** Alan- So are you going to show up at the hearing

Jim- No I am not going to be there I am going to be in Texas

**Question No. 64:** Alan- I used to haul some water to drilling rigs in Wyoming are you hauling any water down there?

Jim- No not on this Job we were hauling Frac Tanks but what we are doing now is hauling pipe

**Question No. 65:** Alan- So you are hauling Drill Pipe

Jim- yea

J. Alan Smith  
8166 Barranca Rd.  
Payson, Arizona 85541  
Telephone: (928) 951-2083

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**AFFIDAVIT**

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State of Arizona     )  
                                  )     **Subscribed Sworn Sealed**  
County of Gila     )

Now comes J. Alan Smith, a Private Citizen of Arizona, proceeding in Propria Persona, "without prejudice" to any of My unalienable Rights; that I do hereby solemnly affirm under oath that I am the Affiant stated herein, having personal knowledge of the facts herein stated, and now deposes and says:

- 1) That on Thursday July 26, 2012 Complainant, J. Alan Smith and Richard M. Burt traveled to Williams, Arizona to interview Mr. Jim Pearson at his home. The interview was recorded and typed up. A copy of that type written interview is attached; and further,
- 2) That Mr. Pearson was quit hostile toward the Complainant and informed him that he would not comply with the Subpoenas or attend the hearing. It should further be noted that he intends to leave the country. In the previous Docket No. W-03514A-12-0008 Mr. Pearson was Subpoenaed and refused to comply. However, an alleged written interview of Mr. Pearson was submitted by the Respondents and the Complainants' were denied the right to cross-examine Mr. Pearson;

**Further, Affiant Sayeth Naught.**

**Signed and Sworn to with reservation of all My Unalienable Rights**

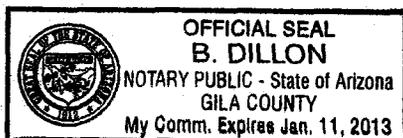
J. Alan Smith seal  
**Signature and Seal of Affiant, a Private  
Citizen of Arizona, supra**

8-06-12  
**Date of Signature**

Subscribed and sworn to before me, a Notary Public, this 6<sup>th</sup> day of August, 2012.

Seal of Notary:

B. Dillon  
**Signature of Notary**



14

Richard M. Burt  
8157 W. Deadeye Rd.  
Payson, Arizona 85541  
Telephone: (928) 474-9859

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**AFFIDAVIT**

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State of Arizona     )  
                                  )     **Subscribed Sworn Sealed**  
County of Gila        )

Now comes Richard M. Burt, a Private Citizen of Arizona, proceeding in Propria Persona, "without prejudice" to any of My unalienable Rights; that I do hereby solemnly affirm under oath that I am the Affiant stated herein, having personal knowledge of the facts herein stated, and now deposes and says:

- 1) That on Thursday July 26, 2012 I, Richard M. Burt and Complainant, J. Alan Smith traveled to Williams, Arizona to interview Mr. Jim Pearson at his home in Williams, Arizona. The interview was recorded and typed out. A copy of that typed interview is attached herewith; and further,
- 2) That to the best of my recollection the typed transcript and recording is true and accurate.

**Further, Affiant Sayeth Naught.**

**Signed and Sworn to with reservation of all My Unalienable Rights**

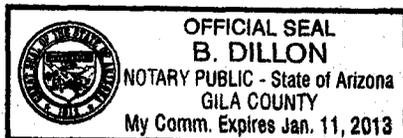
Richard M. Burt seal  
**Signature and Seal of Affiant, a Private  
Citizen of Arizona, supra**

8-06-12  
**Date of Signature**

Subscribed and sworn to before me, a Notary Public, this 6<sup>th</sup> day of August, 2012.

**Seal of Notary:**

B. Dillon  
**Signature of Notary**



Dennis B. Tresca  
8133 Gunsight Ridge  
Payson, Arizona 85541  
Telephone: (928)-472-4701

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**AFFIDAVIT**

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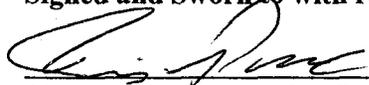
State of Arizona        )  
                                  )       **Subscribed Sworn Sealed**  
County of Gila )

Now comes Dennis B. Tresca, a Citizen of Arizona, Property Owner and Customer of Brooke Utilities, Inc. and Payson Water Co. in the Mesa del Caballo Subdivision proceeding in Propria Persona, and “without prejudice” to any of my Unalienable Rights; that I do hereby solemnly affirm under oath that I am the Affiant stated herein, having personal knowledge of the facts herein stated, and now deposes and says:

- 1) That on one occasion I think about July 2<sup>nd</sup> or 3<sup>rd</sup>, 2011 maybe in late June, 2011, I saw a tanker at the storage tank off Caballero next to the ball field and the Clubhouse pumping water from the tank into the top of the tanker; and further,
- 2) That on or about August 5, 2011; I, drove by the water storage facilities on Barranca Rd. next to Bob Hardman’s home in the after noon and saw the driver sleeping on the rear fender. I went to the store and told Steve Gehring about it and Steve and I went back down to the storage tanks. At that time we both saw a man laying on the back left rear fender of the water hauling truck who Steve identified as Martin of Martin’s Trucking Service whom he had spoken to earlier that day about the hauling rates; and further,
- 3) I yelled out the window of my truck at him and said “Hey you sleeping over there? The man yelled back “just taking a break I’ve been hauling all night” and further,
- 4) That on another occasion I was talking to my neighbor Jason about it and he said that he always sees the driver lying down on the wheel well sleeping; and further,

**Further, Affiant Sayeth Naught.**

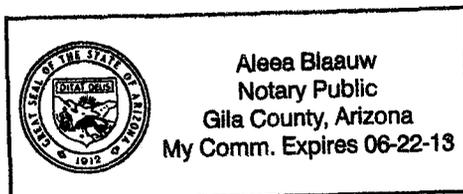
**Signed and Sworn to with reservation of all My Unalienable Rights**

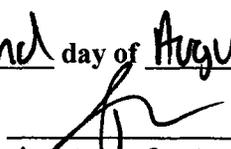
 seal  
Signature and Seal of Affiant, a Private  
Citizen of Arizona, supra

8/2/2012  
date of signature

Subscribed and sworn to before me, a Notary Public, this 2nd day of August, 2012.

seal of notary:



  
signature of notary

(16)

*Presentation of August 4/2001*

Payson Water Co.			
MDC Supplemental Water Cost Analysis- Daily Water Hauling			
Cost Description:	Variable Water Hauling	Fixed Cost Water Hauling	Total Costs
Permits		\$0	\$0
TOP Contract		\$0	\$0
Water Hauling Station (estimated)		\$900	\$900
Transportation Costs (86,400 gallons/day)	\$2,193		\$2,193
TOP Commodity Costs (86,400 gallons/day)	\$220		\$220
Other	\$0	\$0	\$0
	Total Cost/Day	\$2,413	\$900
	Total Cost/Month	\$72,397	
	Total Cost 10 Days/Month	\$24,132.31	
	Total Cost 15 Days/Month	\$36,198.46	
	Total Cost 20 Days/Month	\$48,264.62	
	Total Cost 25 Days/Month	\$60,330.77	
Number of customers		362	
Cost/customer/day		\$7	
Cost/customer/month		\$193	
Cost/load		\$204	
Cost/gallon		\$0.0314	
Cost/1000 gallons		\$31	



Payson Water Co.

MdC Supplemental Water Cost Analysis- Daily Water Hauling

26-Jul-11

Cost Description:	Variable		Fixed Cost		Total Costs
	Water Hauling	Water Hauling	Water Hauling	Water Hauling	
Permits			\$0		\$0
TOP Contract			\$0		\$0
Water Hauling Station (estimated)			\$900		\$900
Transportation Costs (86,400 gallons/day)	\$2,193				\$2,193
TOP Commodity Costs (86,400 gallons/day)	\$220				\$220
Other	\$0		\$0		\$0
Total Cost/Day	\$2,413		\$900		\$3,313
Total Cost/Month	\$72,397				
Total Cost 10 Days/Month	\$24,132.31				
Total Cost 15 Days/Month	\$36,198.46				
Total Cost 20 Days/Month	\$48,264.62				
Total Cost 25 Days/Month	\$60,330.77				

Number of customers	362
Cost/customer/day	\$7
Cost/customer/month	\$193
Cost/load	\$204
Cost/gallon	\$0.0314
Cost/1000 gallons	\$31

# Brooke Utilities Inc.

## Mesa del Caballo Water System

### Water Augmentation Charges Calculation

Expenses incurred in JUN2011 but billed to customers on JUL2011

Document Number	Location ID	Reading Date	Consumption	Meter ID
READ00000331286	51423	7/16/2011	3,050	53382650-1
READ00000331055	51439	7/16/2011	2,850	61176293
READ00000331054	51440	7/16/2011	1,140	61176331-2
READ00000331115	51464	7/16/2011	6,570	53382649-1
READ00000331084	51466	7/16/2011	8,640	32866516-2
READ00000331297	51475	7/16/2011	3,970	57742619
READ00000331380	51476	7/16/2011	2,240	5010100525
READ00000331245	54433	7/16/2011	3,420	54265979
READ00000331356	57802	7/16/2011	5,180	29043628
READ00000331355	57803	7/16/2011	1,410	58672296
READ00000331354	57804	7/16/2011	1,860	57742699-3
READ00000331353	57805	7/16/2011	3,550	1169757106
READ00000331352	57806	7/16/2011	7,380	28180125-2
READ00000331347	57810	7/16/2011	10	11697575
READ00000331321	57812	7/16/2011	5,660	31122171
READ00000331320	57813	7/16/2011	2,310	33345838
READ00000331318	57815	7/16/2011	2,220	311222176
READ00000331317	57816	7/16/2011	4,110	43616205
READ00000331316	57817	7/16/2011	6,920	55507623-2
READ00000331312	57819	7/16/2011	5,230	52908295
READ00000331308	57821	7/16/2011	1,860	60119356
READ00000331301	57824	7/16/2011	2,970	11697331
READ00000331346	57826	7/16/2011	2,580	41171000-1
READ00000331323	57828	7/16/2011	1,180	26758760-2
READ00000331325	57830	7/16/2011	830	11697577
READ00000331339	57832	7/16/2011	9,380	35347317-1
READ00000331345	57836	7/16/2011	1,950	52908238-2
READ00000331344	57837	7/16/2011	860	52138101-1
READ00000331334	57838	7/16/2011	4,560	54265978-1
READ00000331333	57839	7/16/2011	200	39330255
READ00000331335	57841	7/16/2011	3,990	52384268
READ00000331336	57842	7/16/2011	1,800	36927639-2
READ00000331328	57846	7/16/2011	1,030	55507637
READ00000331292	57851	7/16/2011	1,000	52384228
READ00000331290	57853	7/16/2011	910	84179815
READ00000331289	57854	7/16/2011	2,510	27104981
READ00000331284	57857	7/16/2011	1,130	40587692
READ00000331283	57858	7/16/2011	5,170	53382648
READ00000331279	57861	7/16/2011	4,670	30421245

READ00000331294	68706	7/16/2011	6,560	501000090
READ00000331363	68723	7/16/2011	910	42482304
READ00000331184	68740	7/16/2011	2,890	53382651
READ00000331331	68876	7/16/2011	1,160	33345831
READ00000331367	68976	7/16/2011	4,070	5010100063
READ00000331394	69059	7/16/2011	2,910	27786349
READ00000331348	69131	7/16/2011	2,150	53382562
READ00000331146	69158	7/16/2011	1,860	64764212
READ00000331066	69200	7/16/2011	6,340	28827318-5
READ00000331267	69240	7/16/2011	2,880	62070065-7
READ00000331341	69247	7/16/2011	1,110	U35513683
READ00000331081	69316	7/16/2011	2,940	65758919-2
READ00000331227	69447	7/16/2011	2,420	34095767
READ00000331250	69489	7/16/2011	2,310	55649559
READ00000331298	69507	7/16/2011	1,060	69564128
READ00000331118	69517	7/16/2011	2,250	87009747
READ00000331409	69656	7/16/2011	1,500	53382575
READ00000331194	69809	7/16/2011	3,320	27574970
READ00000331092	69830	7/16/2011	1,040	55649527
READ00000331237	69850	7/16/2011	3,370	32868524
READ00000331404	69873	7/16/2011	1,210	67491756
READ00000331259	69880	7/16/2011	200	87009726-3
READ00000331195	69881	7/16/2011	12,470	31122128
READ00000331262	69961	7/16/2011	10	35885168
READ00000331076	69963	7/16/2011	3,260	28702373
<b>TOTAL CONSUMPTION</b>			<b>1,234,320</b>	

**Water Hauling Costs:**

Water Hauling Period	Vendor	Invoice	Date	Amount
05/23/2011 - 06/23/2011	Payson Water D	Acc# 9634	6/29/2011	\$863.77
06/07/2011 - 06/08/2011	Pearson Water	8803	6/13/2011	\$2,250.00
06/07/2011 - 06/08/2011	Pearson Water	8811	7/14/2011	\$1,050.00
06/29/2011 - 06/30/2011	Pearson Water	8812	7/14/2011	\$3,150.00
07/03/2011 - 07/03/2011	Pearson Water	8808	7/7/2011	\$3,000.00
06/19/2011 - 06/20/2011	Pearson Water	8804	6/21/2011	\$3,600.00
06/24/2011 - 06/24/2011	Pearson Water	8807	6/30/2011	\$2,850.00
<b>TOTAL Water Hauling Costs:</b>				<b>\$16,763.77</b>

**Calculation:**

Total Costs	Dollars	\$16,764	=	<b>\$0.0136</b>
Consumption	Gallons	1,234,320		

**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**PAYSON WATER COMPANY**

**DOCKET NOS. W-03514A-10-0116 and W-03514A-10-0117**

**APPLICATION FOR A  
WATER AUGMENTATION SURCHARGE TARIFF**

**MAY 10, 2010**

**EXECUTIVE SUMMARY  
PAYSON WATER COMPANY  
APPLICATION FOR A WATER AUGMENTATION SURCHARGE TARIFF  
DOCKET NO. W-03514A-10-0116**

Payson Water Company ("Payson" or "Company") is a Class C water utility that provides water service north of the town of Payson within unincorporated portions of Gila County, Arizona. As of February 28, 2010, the Company has approximately 1,502 active water service customers, 369 of which are located in the Company's Mesa del Caballo water system.

Due to the seasonal nature of customer activity on the Mesa del Caballo system, the Company experiences substantial increased water service demands during the summer months. The high summer customer demands exacerbate a continuing water supply problem for the Company. During the 2009 summer season, the Company hauled water into its system to meet its customer demands. The cost for hauling water into the Mesa del Caballo system for 2009 amounted to \$59,137. The Company states that it cannot absorb further water hauling costs without jeopardizing its financial viability. In order to meet its customer demands while maintaining viability, Payson has filed an application for approval of a water augmentation surcharge tariff with the Arizona Corporation Commission ("Commission").

The water augmentation surcharge tariff would provide for the Company to recover its water hauling costs from customers in the form of a monthly surcharge. It would be revenue neutral as it would only produce funds to cover the previous month's water hauling cost. The water augmentation surcharge tariff would only apply to the Mesa del Caballo system customers.

Because the water augmentation surcharge tariff rate will be based on actual usage, it is not possible for Staff to determine the precise financial impact of the surcharge. However based on the cost and the limitations of Payson's water hauling program and the usage pattern of Mesa del Caballo customers from the 2009 summer season, the typical 5/8 x 3/4 inch Mesa del Caballo customer with a median usage of 3,621 gallons could experience an increase from \$22.95 to \$137.97, an increase of \$115.02 or 501.2 percent, based on all water being supplied through water hauling.

Staff recommends approval of the water augmentation surcharge tariff sought by Payson Water Company.

Staff further recommends that the water augmentation surcharge tariff rate be interim and only effective until permanent rate relief is granted by the Commission.

Staff further recommends that the water augmentation surcharge tariff rate only be effective for Payson Water Company's Mesa del Caballo water system.

Staff further recommends that the water augmentation surcharge tariff rate solely cover documented expenses for hauling water into the Company's Mesa del Caballo water system.

Staff further recommends that the Company be directed to file, within 30 days of the Order, a revised rate schedule reflecting the water augmentation surcharge tariff with Docket Control, as a compliance item in this docket.

Staff further recommends that the Company provide its customers the revised tariff, and its effective date, in a form acceptable to Staff, by means of an insertion in the Company's next regularly scheduled billing.

Staff further recommends that the Company file a full rate case within 12 months of the Decision made in the instant case.

Staff further recommends that if the Company believes it will need to incur debt in order to solve its water shortage problem, that it files a financing application concurrent with the rate application.

Staff further recommends that the Company be required to post a bond or irrevocable sight draft letter of credit in the amount of \$60,000 to ensure that there is sufficient money available to refund to customers if the Commission determines in the permanent rate case that the emergency surcharge was not needed or too large. However, should the Commission choose a minimal bond as it has in some recent emergency applications; Staff recommends an additional option of posting a cashiers check with the Commission for the lower amount, e.g. 100 dollars. This option is recommended as the Company may be unable to obtain a bond or sight draft letter of credit.

## **Introduction**

On March 31, 2010, Payson Water Company ("Payson" or "Company") filed an application for approval of a water augmentation surcharge tariff with the Arizona Corporation Commission ("Commission"). On April 5, 2010, the Company filed a motion to consolidate the instant application with a related Payson Water Company filing pertaining to the Company's proposed changes to its curtailment tariff for its Mesa del Caballo system. On April 22, 2010, a Procedural Order was issued consolidating the Company's filings and setting May 18, 2010, as the date for the hearing on the filings.

Payson's primary source of water for its operations has historically been groundwater pumped from wells located in its service area. Recently however, this source has been unable to meet customer demands during the summer season for the Company's Mesa del Caballo water system. The Company states it experiences an increase in usage and the number of customers on its Mesa del Caballo system during the summer season, as some of the Company's customers are seasonal. To meet the increased demand in 2009, the Company augmented its water supply by hauling water into its Mesa del Caballo system.

In its application, Payson stated that during the 2009 summer season the Company augmented its water supply by hauling water into its Mesa del Caballo system at a cost to the Company of \$59,137. The Company cannot further absorb water augmentation costs for the 2010 summer season thus creating the need for the water augmentation surcharge tariff.

The Company has been working with the representatives of the Mesa del Water Committee ("Water Committee") to formulate both a short and long-term plan for supplementing its water supply. Plans include changes to the Company's curtailment tariff that would apply only to the Mesa del Caballo system. The changes are believed by both Payson and the Water Committee to be needed in order to best manage available water resources for the water system. The proposed revisions to Payson's curtailment tariff are addressed by Staff in the Engineering Memorandum (Attachment A) attached to this Staff Report.

## **Background**

Payson is an Arizona class C utility engaged in the business of providing potable water service to an area north of the town of Payson within unincorporated portions of Gila County, Arizona. Payson holds a certificate of convenience and necessity, which was transferred to its parent company Brooke Utilities in Commission Decision no. 60972, dated June 19, 1998.

The current rates have been in effect since March 28, 2000, per Decision No. 62401.

## **Customers**

Payson provides water service to an area north of the town of Payson within unincorporated portions of Gila County, Arizona. As of February 28, 2010, Payson has

approximately 1,502 active water service customers, 369 of which are serviced by the Company's Mesa del Caballo water system.

### **Engineering Analysis**

According to the Company's 2009 Annual Report, the Company's water system consists of nine wells (total production varies from 59 to 19 gallons per minute), five storage tanks (totaling to 105,000 gallons), numerous booster systems, and a distribution system serving approximately 370 service connections.

Based on Staff's analysis of the Company's well data, Staff concurs with the Company that the Mesa del Caballo System has a water supply problem. A complete discussion of Staff's technical findings and recommendations and a complete description of the water system are provided in the attached Engineering Memorandum (Attachment A).

### **Compliance**

The Utilities Division Compliance Section shows no outstanding compliance issues.

Payson has no outstanding compliance issues with the Corporations Division of the Commission.

### **Consumer Services**

A review of the Consumer Services Section database from January 1, 2007 to April 16, 2010 revealed the following customer complaints, inquiries and opinions were filed against Payson.

2007 – 17 Complaints and 1 Opinion.

2008 – 9 Complaints

2009 – 26 Complaints

2010 – 4 Complaints

All complaints have been resolved and closed.

### **Long-Term Planning**

The Company stated in its application that its long-term plans for water augmentation include two options. The first option is to drill a new deep well that will only be viable if hydrological studies prove there is a sustainable, economically justifiable water source beneath the Mesa del Caballo system. The second option is for the Company to tap into the future C.C.

Cragin reservoir pipeline that will serve the town of Payson. The pipeline's current design will have it connected to a treatment facility located across from the Mesa del Caballo subdivision. Both options will be addressed more extensively in the Company's future permanent rate case filing.

### **Short-Term Planning**

The Company has negotiated an agreement with the City of Payson to purchase up to 86,400 gallons of water per day to supplement the Mesa del Caballo system when water supply is inadequate to meet customer demands. The access of water sources from the City of Payson helps minimize the cost associated with hauling water due to the proximity of the city to the Mesa del Caballo system.

The Company has also explored plans for a temporary pipeline tied into the City of Payson's water system but those plans are not likely to be realized for the summer of 2010 but remain a viable option for 2011 or 2012. The Company estimates this temporary pipeline to have a rental cost for the May to September timeframe of approximately \$45,000. Additional information on the Company's temporary pipeline plans are provided in the attached Engineering Memorandum (Attachment A).

### **Financial Impact of Surcharge**

Staff has computed the rate for Payson to haul water to be \$33.68 per thousand gallons, as shown on Schedule DRE-2. This rate represents the maximum volumetric charge the Company could charge its customers to provide water. Staff has computed this rate to depict the worst case scenario for the Company as it assumes that the Company's wells provide no water to customers. In researching the Company's water hauling charges for 2009, Staff determined that when the Company did have to haul water it was at the \$33.68 maximum rate that Staff has determined as the worst case scenario.

Based on the 2009 summer season (May to September) for the Company, Staff has computed the median usage on the system to be 3,621 gallons. The typical 5/8 x 3/4 inch Mesa del Caballo customer with a median usage of 3,621 gallons could experience an increase from \$22.95 to \$137.97, an increase of \$115.02 or 501.2 percent, based on all water being supplied through water hauling, as shown on Schedule DRE-1.

The Company cannot, however, supply all water to its customers through water hauling. In 2009, based on the Company's actual water hauling expenses, the typical customer would have experienced an increase of approximately \$16.50 per bill for usage of hauled water.

Staff believes that Payson's current situation meets the general conditions necessary for interim emergency consideration. Staff believes that Payson has experienced a situation where the ability of Payson to maintain service, pending a formal rate determination, is in serious

doubt, satisfying Condition No. 3 of the situations necessary for an interim, emergency rate set forth in Attorney General Opinion No. 71 - 17.

Because of the timing limitations inherent in emergency applications, Staff was unable to perform a full audit and based its determination on the Company's emergency application and other, readily available, sources.

Staff also recommends that the Company be required to post a bond or irrevocable sight draft letter of credit in the amount of \$60,000 to ensure that there is sufficient money available to refund to customers if the Commission determines in the permanent rate case that the emergency surcharge was not needed or too large. However, should the Commission choose a minimal bond, e.g. 100 dollars, as it has in some recent emergency applications; Staff recommends an additional option of posting a cashiers check for that amount with the Commission. This option is recommended as the Company may be unable to obtain a bond or sight draft letter of credit.

### **Staff Recommendations**

Staff recommends approval of the water augmentation surcharge tariff sought by Payson Water Company.

Staff further recommends that the water augmentation surcharge tariff rate be interim and only effective until permanent rate relief is granted by the Commission.

Staff further recommends that the water augmentation surcharge tariff rate only be effective for Payson Water Company's Mesa del Caballo water system.

Staff further recommends that the water augmentation surcharge tariff rate solely cover documented expenses for hauling water into the Company's Mesa del Caballo water system.

Staff further recommends that the Company be directed to file, within 30 days of the Order, a revised rate schedule reflecting the water augmentation surcharge tariff with Docket Control, as a compliance item in this docket.

Staff further recommends that the Company provide its customers the revised tariff, and its effective date, in a form acceptable to Staff, by means of an insertion in the Company's next regularly scheduled billing.

Staff further recommends that the Company file a full rate case within 12 months of the Decision made in the instant case.

Staff further recommends that if the Company believes it will need to incur debt in order to solve its water shortage problem, that it files a financing application concurrent with the rate application.

(17)

(27)

**ALL WATER SUPPLIED THROUGH WATER HAULING RATE**

**TYPICAL BILL ANALYSIS**

Average Number of Customers: 374

<u>Usage Category</u>	<u>Gallons</u>	<u>Present Rates</u>	<u>Maximum Water Hauling Rates</u>	<u>Dollar Increase</u>	<u>Percent Increase</u>
Median Usage	3,621	\$22.95	\$137.97	\$115.02	501.2%

Present & Proposed Rates (Without Taxes)  
 General Service 5/8 X 3/4 - Inch Meter

<u>Gallons Consumption</u>	<u>Present Rates</u>	<u>Water Hauling Rates</u>	<u>% Increase</u>
0	\$16.00	\$16.00	0.0%
1,000	17.92	49.68	177.2%
2,000	19.84	83.36	320.2%
3,000	21.76	117.05	437.9%
4,000	23.68	150.73	536.5%
5,000	26.67	184.41	591.5%
6,000	29.66	218.09	635.3%
7,000	32.65	251.78	671.1%
8,000	35.64	285.46	701.0%
9,000	38.63	319.14	726.1%
10,000	41.62	352.82	747.7%
15,000	56.57	521.24	821.4%
20,000	71.52	689.65	864.3%
25,000	86.47	858.06	892.3%
50,000	161.22	1,700.12	954.5%
75,000	235.97	2,542.18	977.3%
100,000	310.72	3,384.24	989.2%
125,000	385.47	4,226.30	996.4%
150,000	460.22	5,068.36	1,001.3%
175,000	534.97	5,910.42	1,004.8%
200,000	609.72	6,752.48	1,007.5%

**ALL WATER SUPPLIED THROUGH WATER HAULING RATE**

a	Maximum Daily Water to be Hauled (in gallons)	86,400
b	Maximum Amount Hauled Per Truck (in gallons)	6,500
c	Maximum Truck Loads per Day ( a / b)	13.29
d	Truck Rental Fee per Hour	\$ 150.00
e	Time Required per Delivery (in hours)	1.2
f	Maximum Truck Costs per day ( c x d x e)	\$ 2,392.62
g	Water rate from City of Payson (per thousand gallons)	\$ 5.99
h	Maximum Water Costs per day ( a /1000 x g)	\$ 517.54
i	Maximum Monthly Water Hauling Cost ( f + h )	\$ 2,910.16
j	Average Days per Month (May to September)	30.6
k	Maximum Monthly Water Hauling Cost ( i x j )	\$ 89,050.94
l	Maximum Total Water Sold ( a x j )	2,643,840
m	Maximum Water Hauling Rate per thousand ( k / l x 1000)	\$ 33.68

## MEMORANDUM

TO: Darak Eaddy  
Public Utilities Analyst II  
Utilities Division

FROM: Marlin Scott, Jr. *DS*  
Utilities Engineer *for*  
Utilities Division

DATE: May 6, 2010

RE: Payson Water Company – Mesa del Caballo System  
Docket No. W-03514A-10-0116 (Water Augmentation Surcharge/Emergency Rate  
Tariff)  
Docket No. W-03514A-10-0117 (Proposed Changes to Existing Curtailment Tariff)

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### **Introduction**

On March 31, 2010, Payson Water Company – Mesa del Caballo System (“Company”) filed applications for; 1) an emergency implementation of a surcharge or emergency rate tariff due to water shortages on its Mesa del Caballo System, and 2) proposed changes to its existing curtailment tariff. According to the Company, the proposed revised curtailment tariff should not go into effect unless the Company receives approval of its requested Water Augmentation Surcharge Tariff. These tariffs are linked due to the water augmentation requirements that are triggered once the curtailment tariff’s Stage 3 goes into effect.

The Company is located north of Payson, in Gila County, with its CC&N covering approximately 1/4 square-mile.

### **Water System**

#### *Operation*

According to the Company’s 2009 Annual Report, the Company’s water system consists of nine wells (total production varies from 59 to 19 gallons per minute), five storage tanks (totaling to 105,000 gallons), numerous booster systems, and a distribution system serving approximately 370 service connections.

#### *Capacity*

According to the Company’s well data, the production of the wells vary throughout the year, from 59 to 19 GPM due to production depletions, resulting in a water supply problem. Staff has estimated the peak day demand to be 0.30 GPM per connection for evaluating well

capacity sufficiency. For its storage capacity evaluation, Staff estimated 345 gallons per day ("GPD") per connection. Using these factors, Staff determined that:

- a. The well capacity totaling 59 GPM could adequately serve up to 197 connections. However, the 59 GPM well capacity could vary throughout the year due to well production depletions; if production dropped to 47 GPM (due to the largest well not producing), this system could only serve 156 connections.
- b. The storage capacity of 105,000 gallons could provide 305 connections with one day's worth of storage. If the well production is considered in the storage capacity requirement, this system could provide up to 500 connections with one day's worth of storage.

If well production does not drop below the 59 GPM level, this water system could adequately serve up to 197 connections,

#### *Water Hauled*

Because of the Company's water supply problem last summer, the Company hauled 721,500 gallons of water at a cost of \$59,138. This water hauling occurred from May 2009 to August 2009.

#### **Plans for Water Augmentation**

##### *Short-Term*

The Company's short-term plan for water augmentation to the Mesa del Caballo System is a temporary pipeline, approximately 1.8 miles, from the Town of Payson's water system. This supplemental water supply is estimated to provide 60 GPM and could be available sometime in 2011. According to the Company, this temporary pipeline is projected to be an above-ground 3-inch High Density Polyethylene ("HDPE") pipeline that will be installed and operating only during the peak season from May 1 through September 30. The rental cost is estimated at \$300 per day, at a total of \$45,000 for a 5-month period.

##### *Long-Term*

The Company's long-term plan for water augmentation to the Mesa del Caballo System includes two options; 1) a deep well project, if feasible, or 2) tapping into the future C.C. Cragin reservoir pipeline that will serve the Town of Payson. According to the Company, these options will be addressed more fully in the Company's permanent rate case proceeding.

#### **Proposed Revision to Curtailment Tariff**

The Company currently has a curtailment tariff that was approved by Decision No. 67821 (May 5, 2005). In its application, the Company requested certain modifications to its existing

tariff. Staff has reviewed the Company's proposed modifications and has accepted most of the Company's changes with the exception of one modification, the inclusion of the "Water Consumption Calculation of Daily Use" sheet. It is Staff's opinion that this change should not be approved because it will be difficult to administer and explain to customers. Staff is also concerned that seasonal customers who do not have a water use record could be penalized and those customers who have voluntarily reduced their water use in the past could be penalized more than the heavy users.

The attached Tariff Schedule shows the Company's proposal with Staff's changes. Staff recommends approval of the attached Tariff Schedule as amended by Staff.

#### **Arizona Department of Environmental Quality ("ADEQ") Compliance**

In an ADEQ compliance status report, dated May 4, 2010, ADEQ has reported that the Company's water system, Public Water System #04-030, is in compliance with ADEQ regulations and is currently delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

#### **Arizona Corporation Commission ("ACC") Compliance**

A check with the Utilities Division Compliance Section on May 4, 2010, showed no delinquent ACC compliance items for the Payson Water Company.

#### **Arizona Department of Water Resources ("ADWR") Compliance**

The Company is not located in any ADWR Active Management Area. According to an ADWR compliance status report, dated May 5, 2010, ADWR reported that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.

#### **Conclusions/Recommendations**

Staff concurs with the Company that the Mesa del Caballo System has a water supply problem.

The Company is in compliance with ADEQ and ADWR regulations.

Staff recommends approval of the Company's proposed curtailment tariff, as amended by Staff, shown in the attached Tariff Schedule.

Staff further recommends, and concurs with the Company's request, that the proposed revised curtailment tariff not go into effect unless the Company receives approval of its requested Water Augmentation Surcharge Tariff.

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1 water. Mr. Hardcastle points out that the retail price for Pine Water's customers is \$3.85 per  
2 thousand gallons, which is only a fraction of the cost of hauling water.

3 **A. Standard for Interim Rate Relief**

4 With respect to the need for interim rate relief, Mr. Hardcastle testified that the Company's  
5 current rates do not provide for recovery of hauling water from outside sources during periods of  
6 emergency shortages. He stated that Pine Water has not recovered any of the costs incurred for  
7 obtaining supplemental water and that that these unrecovered water hauling costs total "hundreds of  
8 thousands of dollars." Mr. Hardcastle claims that, without immediate rate relief, the Company will  
9 face economic and operational collapse. He stated further that, because permanent rate relief will not  
10 be available until Spring 2004, at the earliest, without interim rate relief, "serious, long term water  
11 service interruptions in 2003...will almost certainly occur."

12 In *Scates v. Arizona Corporation Comm'n*, 118 Ariz. 532, 578 P.2d 612 (App. 1978), the  
13 court addressed the issue of whether, and under what circumstances, the Commission had authority to  
14 approve interim rates for a public service corporation. Citing a 1971 Arizona Attorney General's  
15 Opinion (Opinion No. 71-17), the court concluded that under certain limited circumstances the  
16 Commission could approve interim rates "until there is adequate inquiry into whether they are just  
17 and reasonable." *Scates*, 118 Ariz. At 535. The *Scates* decision was cited with approval in  
18 *Residential Utility Consumer Office v. Arizona Corporation Comm'n*, 199 Ariz. 588, 20 P.3d 1169  
19 (App. 2001) ("*Rio Verde*"), wherein the court stated that the Commission's interim rate-making  
20 authority is limited to circumstances where "(1) an emergency exists; (2) a bond is posted by the  
21 utility guaranteeing a refund to customers if the interim rates paid are higher than the final rates  
22 determined by the Commission; and (3) the Commission undertakes to determine final rates after a  
23 valuation of the utility's property." *Rio Verde*, 199 Ariz. At 591. The court went on to state that  
24 interim rate making requires the presence of all three elements before relief may be granted by the  
25 Commission.

26 **1. Existence of an Emergency**

27 In this proceeding, the record establishes that the necessary elements for interim relief have  
28 been met. It is uncontroverted that Pine Water faces an emergency with respect to a lack of water

1 supply and due to its precarious financial position. The instances of water shortages and curtailment  
2 in Pine during peak usage periods are well documented. Indeed, Pine Water, and its predecessors,  
3 have been subject to various moratoria on new hook-ups for a number of years.<sup>1</sup> Despite the  
4 Company's efforts to repair system leaks and to obtain additional sources of water, shortages during  
5 peak summer periods have occurred in recent years and are likely to occur in the future. When Pine  
6 Water is unable to meet these peak demands it has been necessary for the Company to augment its  
7 water supply with water hauled in by trucks. Mr. Hardcastle testified that the hauled water is  
8 significantly more expensive than the rates Pine Water is authorized to charge customers. As a result,  
9 the Company has incurred hundreds of thousands of dollars in water hauling expenses over the past  
10 several years that it has not recovered from customers. Additionally, the Company's financial  
11 statements show that Pine Water has operated at a net operating loss for the past two years.  
12 According to the Company's witness, absent interim rate relief Pine Water will likely face serious,  
13 long-term service interruptions because it will be financially unable to pay for hauled water during  
14 periods of shortage. Based on this evidence, we believe Pine Water has established the existence of  
15 an emergency under the criteria established in the *Scates* and *Rio Verde* cases.

## 16 2. Bond Requirement

17 With respect to the second element, Pine Water has agreed to post a \$50,000 bond to protect  
18 against the possibility that permanent rates may be lower than the amounts collected under the  
19 interim surcharge. Staff agreed with the amount of the proposed bond based on Pine Water's 2002  
20 purchased water invoices totaling approximately \$40,000. With the Company's agreement to post a  
21 \$50,000 bond, the second prong of the interim rate test has been satisfied.

## 22 3. Filing of Permanent Rate Application

23 The third element of the interim rate test requires that the utility company must file a  
24 permanent rate application in order to ensure that the interim rates are just and reasonable in  
25 accordance with the Commission's constitutional mandate. As described above, Pine Water is  
26 required, pursuant to Decision No. 65435, to file a permanent rate application by May 1, 2003.

27  
28 <sup>1</sup> See, e.g., Decision Nos. 56539 (July 12, 1989); 56654 (October 6, 1989); 59753 (July 18, 1996); 64400 (January 31, 2002); 65435 (December 9, 2002).

1 Therefore, the Commission will have the opportunity, in the near future, to conduct a comprehensive  
2 evaluation of Pine Water's financial condition and the reasonableness of the interim surcharge, and to  
3 further consider recommendations for long-term solutions to the water shortage situation in the Pine  
4 area.

5 **B. Surcharge Mechanism**

6 In its March 31, 2003 Staff Report, Staff agreed that Pine Water faced an "emergency  
7 situation" due to the limited supply of water in the Pine area. Staff recommended, however, that the  
8 Company's proposed anticipatory surcharge be replaced by a surcharge mechanism based on costs  
9 that are actually incurred for hauling water. Staff witness Claudio Fernandez testified that the  
10 Company should be entitled to recover bulk water purchases, the cost of transporting the bulk water,  
11 and postage for customer notices. Staff's recommended surcharge would be calculated by dividing  
12 these costs by that month's water sold to arrive at a rate per 1,000 gallons. The resulting rate would  
13 then be multiplied by the gallons used in that month in order to recover the actual expenses incurred.  
14 The water hauling surcharge would end when a Commission Decision is issued regarding the  
15 Company's permanent rate case application.

16 Staff also stated that its proposed surcharge mechanism would require a "true-up" to account  
17 for \$30,227 that was provided for "purchased water expenses" in the Company's last rate case in  
18 Decision No. 62400 (March 31, 2000). However, Company witness Bourassa explained in his  
19 rebuttal testimony that Pine Water continues to incur costs for water sharing agreements and  
20 purchased water in amounts at least as great as the purchased water costs that are currently included  
21 in rates. Therefore, the Company opposed Staff's proposed offset.

22 At the hearing, Mr. Fernandez clarified that, in calculating the proposed offset, the Company  
23 would be entitled to include its costs for augmentation (i.e., hauling), postage costs associated with  
24 customer notices, the cost of the \$50,000 bond, and costs associated with the Company's ongoing  
25 water sharing agreements and purchased water. With that clarification, Pine Water indicated at the  
26 hearing that it supports Staff's proposed surcharge mechanism.

27 Although Pine Water has provided sufficient justification for the implementation of a  
28 temporary interim surcharge, we believe that a modification to Staff's recommendation is necessary

1 to ensure that only costs associated directly with hauling water are recovered through the interim  
 2 surcharge. Accordingly, Pine Water shall only be entitled to recover in the interim surcharge the  
 3 costs of hauled water and the transportation costs required for hauling the water. As recommended  
 4 by Staff, the surcharge will be calculated by dividing the water hauling costs by that month's water  
 5 sold, to arrive at a rate per 1,000 gallons. The resulting rate shall then be multiplied by the gallons  
 6 used in that month in order to recover the actual expenses incurred<sup>2</sup>. The water augmentation  
 7 surcharge shall end when a Commission Decision is issued regarding the Company's permanent rate  
 8 case application.

9 **C. Curtailment Tariff**

10 **1. Notice Requirements**

11 Staff recommends that Pine Water be required to notify customers by mail when the  
 12 Company reaches Stages 3, 4 and 5. Staff believes that notice by mail is appropriate because  
 13 customers who live outside of the Pine area may be less likely to travel to the area if they receive  
 14 notice of the conservation measures necessary in those stages. Mr. Hardcastle testified that mail is an  
 15 inefficient means of notification because the conservation stages often change rapidly and customers  
 16 could be confused if they receive multiple mailed notices within a short period of time. The  
 17 Company contends that other means of notification are more efficient, such as changing the local sign  
 18 postings, providing electronic mail notices, and posting notice in the local post office.

19 As part of their April 25, 2003 late-filed exhibit, Pine Water and Staff attached an Amended  
 20 Revised Curtailment Tariff that would require the Company to provide notice by First Class US Mail  
 21 when the water supply situation requires Pine Water to move from Stage 2 to Stage 3, and from Stage  
 22 4 to Stage 5. The parties indicate that the amended Curtailment Tariff reflects a further compromise  
 23 by both Staff and the Company on this issue.

24 With respect to the revised Curtailment Tariff requirements, we disagree with Staff that  
 25

26 <sup>2</sup> At the close of the hearing, the Administrative Law Judge directed the Company and Staff to determine the rate effect of  
 27 the proposed surcharge, based on Pine Water's water hauling costs incurred during 2002. On April 25, 2003, Staff and  
 28 the Company submitted a late-filed exhibit showing that, based on Staff's proposed methodology, exclusive of notice  
 costs, the average cost per customer for the proposed surcharge would range from a 40 cents per 1,000 gallons decrease in  
 March, to a \$7.79 per 1,000 gallons increase in August (Exhibit 1 to April 25, 2003 filing). On a percentage basis, the  
 surcharge would range from a 1.99 percent decrease in March to a 54.39 percent increase in August.



**The USGS Water Science School**

**Water Questions & Answers**

**How much water does the average person use at home per day?**



Estimates vary, but each person uses about 80-100 gallons of water per day. Are you surprised that the largest use of household water is to flush the toilet, and after that, to take showers and baths? That is why, in these

days of water conservation, we are starting to see toilets and showers that use less water than before.



Many local governments now have laws that specify that water faucets, toilets, and showers only allow a certain amount of water flow per minute. Water agencies in some areas, such as here in Atlanta, Georgia, offer rebates if you install a water-efficient toilet. In fact, I just put in two new toilets and received a rebate of \$100 for each. Yes, they really do use a lot less water. For your kitchen and bathroom faucets, if you look real close at the head of a faucet, you might see something like "1.0 gpm", which means that the faucet head will allow water to flow at a maximum of 1.0 gallons per minute.

**Typical water use at home**

<b>Bath</b>	A full tub is about 36 gallons.
<b>Shower</b>	2 gallons per minute. Old shower heads use as much as 5 gallons per minute.
<b>Teeth brushing</b>	<1 gallon, especially if water is turned off while brushing. Newer bath faucets use about 1 gallon per minute, whereas older models use over 2 gallons.
<b>Hands/face washing</b>	1 gallon
<b>Face/leg shaving</b>	1 gallon
<b>Dishwasher</b>	4 to 10 gallons/load, depending of efficiency of dishwasher
<b>Dishwashing by hand:</b>	20 gallons. Newer kitchen faucets use about 2.2 gallons per minutes, whereas older faucets use more.
<b>Clothes washer</b>	25 gallons/load for newer washers. Older models use about 40 gallons per load.
<b>Toilet flush</b>	3 gallons. Most all new toilets use 1.6 gallons per flush, but many older toilets used about 4 gallons.
<b>Glasses of water drunk</b>	8 oz. per glass (did you remember to drink your 8 glasses of water today?)

38

**Outdoor  
watering**

5 to 10 gallons per minute

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U.S. Department of the Interior | U.S. Geological Survey  
URL: <http://ga.water.usgs.gov/edu/qa-home-percapita.html>  
Page Contact Information: Howard Perlman  
Page Last Modified: Friday, 09-Mar-2012 14:20:51 EST

**Brooke Utilities Inc.**

Location: Arizona, Corp in CA  
Customer No.: 7,100  
Initial Agreement Date: February 25, 1999  
Expiration Date: February 25, 2002  
Contract Term: 3 year, provision to extend  
Type of Service: Utility Services - Water  
Service Summary: Billing, cash processing and call handling



Better Business Bureau®

## BBB BUSINESS REVIEW

**THIS BUSINESS IS NOT BBB ACCREDITED**

**Brooke Utilities, Inc.**

(661) 393-7000

PO Box 82218, Bakersfield, CA 93380-2218



On a scale of A+ to F  
Reason for Rating  
BBB Ratings System Overview

*BBB Business Reviews may not be reproduced for sales or promotional purposes.*

### BBB Accreditation

Brooke Utilities, Inc. is not BBB Accredited.

Businesses are under no obligation to seek BBB accreditation, and some businesses are not accredited because accreditation.

To be accredited by BBB, a business must apply for accreditation and BBB must determine that the business must include a commitment to make a good faith effort to resolve any consumer complaints. BBB Accredited Business accreditation review/monitoring and for support of BBB services to the public.

### Reason for Rating

BBB rating is based on 16 factors. Get the details about the factors considered.

Factors that *lowered* Brooke Utilities, Inc.'s rating include:

- 14 complaints filed against business
- Failure to respond to 13 complaints filed against business.

41

BBB does not have sufficient background information on this business. BBB made two or more requests for business information. BBB has not received a response from this business and/or has not been able to verify information received. BBB does not have sufficient information to determine size of business. BBB evaluation of business is based on classification.

### Customer Complaints Summary

14 complaints closed with BBB in last 3 years | 14 closed in last 12 months

Complaint Type	Total Closed Complaints
Billing / Collection Issues	8
Delivery Issues	1
Problems with Product / Service	5
Advertising / Sales Issues	0
Guarantee / Warranty Issues	0
<b>Total Closed Complaints</b>	<b>14</b>

### Government Actions

BBB knows of no significant government actions involving Brooke Utilities, Inc..

What government actions does BBB report on?

### Advertising Review

BBB has nothing to report concerning Brooke Utilities, Inc.'s advertising at this time.

What is BBB Advertising Review?

### Additional Information

Information in this BBB Business Review is believed reliable, but not guaranteed as to its accuracy. The BBB has not verified information including, but not limited to: business start date, ownership, licensing, and registration (if applicable). BBB does not endorse any product, service or business.

BBB file opened: 03/20/2003

#### Contact Information

Principal:

#### Business Category

Water Companies - Utility

42

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Where? (City, State)

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## Brooke Water

(928) 667-3335

9079 Riverside Dr, Parker, AZ 85344

Send to Phone

### Reviews

#### bad review by really?- 03/13/2012

ok. my father in law passed away in january of 2012 brooke water shut off his water, charged us 70\$ and some change for his charges plus late fees. And told us when the check gets cashed call them and they will turn it back on. Isn't that your job? You certainly don't waste any time shutting someone off, but when it comes to turning them back on you need a reminder phone call that you got your outrageous amount of money for no water useage. And it gets better we got another bill thanking us for our payment and giving us our new pastdue balance for 470 gallons of water used. how can you use water when you have been shut off? not to mention deceased and not living or using water so who is? we are paying the bills who is using the water that has be shut off Brooke Water? Why are we being charged for 470 gallons of water for the duration the water has not been on? thank you!

Share Review

#### Yes, Brook Water is STILL up to there old stuff. I turned them over to BBB (Better Business Bureau) by Diana- 03/03/2012

Yes, I did and I am proud to say it to ALL the people who are afraid of this company. I also plan to pursue this case to the end!!!

Share Review

#### Whywouldawatercompanydenytherecommunitywater? by unhappy people-

12/19/2011

This is company would be a joke expect for the people depending on them for there water. I have heard of people who have waited weeks to get there water turned on. Some of them have children. I met a resident who has had there water turned off three different times with no notice. They are scared to do anything for fear of there water being shut off. I am disabled, so is my husband, and my oldest son. They do not answer

43

1 - 4 of 4 phone calls.. They do not call us back. We are trying to live the best as we can Sort by  by Date  
we have to suffer? It is not our fault they won't call us back. I have asked other people to call for us. So there is three familys calling brooke water, to help us get some water in our home. I am not stoping here. I am going to keep on pushing until I get a answer.

Share Review

**Mary by Conversation over the phone- 06/25/2010**

This is the worst company I have ever spoke to in my life. Mary yelled at me while we were having a conversation, judged me on my personal life and did not help me with my situation. When I asked to speak to anyone else in that whole company, she said she could not give me that information. When I asked for other numbers for customer service, she did not give me that information. She is one of the worse people, with the worst personalities I have ever met, and that is not how a payin customer should have been treated.

Share Review

44

**Additional Analysis of Payson Water Co. 2011 Mdc Water Augmentation  
Worksheet dated June 7, 2012 and The Town of Payson Water Department's  
Customer Maintenance-Master View for Act. No. 00009634**

**Reference:** Complainant's Initial Discovery and Disclosure dated July 13, 2012 (filing date with Docket Control unknown); page 12 2009 to 2011 Well Production (also labeled C-1 page 3); page 16 (also labeled R-6 page 17); page 17(also labeled S-3 page 8, R-6 page 18 and C-2 page 36); page 22 (also labeled C-6) and page 18 of this disclosure titled Mdc Supplemental Water Cost Analysis-Daily Water Hauling dated July 26,2011.

During the May 1, 2011 to September 30, 2011 Augmentation Period the following facts apply pursuant to the Disclosures referenced above:

- 1) Well Production for the 2011 Augmentation Period is 6,169,525 gallons;
- 2) Customer Consumption for the 2011 Augmentation Period is 5,345,294 gallons;
- 3) Surplus Water during 2011 Augmentation Period is 824,231 gallons;
- 4) The Cost to purchase 701,900 gallons of water from the Town of Payson is in fact \$4,533.90;
- 5) The alleged cost of the water and the hauling during the Augmentation Period is \$35,553.69;

Therefore:

$$\frac{\$35,553.69}{701,900} = .0507 \text{ or } \$50.70/1,000 \text{ gal. for the water and the hauling}$$

This figure exceeds the figure of \$33.68 as the maximum rate that Staff determined as the worst case scenario based on the figures provided to them for the 2009 Augmentation Period.

This figure exceeds what the ACC authorized and was recommended by the ACC Staff in their May 10, 2010 Staff Report in DRE-2 and on page 3 of that report under the sub-paragraph titled "Financial Impact of Surcharge."

Subtracting the water from the total amount of the water and hauling reduces the total figure to \$31,019.79.

Therefore:

$$\frac{\$31,019.79}{701,900} = .0442 \text{ or } \$44.20/1,000 \text{ gal. for just the hauling}$$

This figure exceeds the figure of \$33.68 as the maximum rate that Staff determined as the worst case scenario based on the figures provided to them for the 2009 Augmentation Period.

This figure exceeds what the ACC authorized and was recommended by the ACC Staff in their May 10, 2010 Staff Report in DRE-2 and on page 3 of that report under the sub-paragraph titled "Financial Impact of Surcharge."

$$\frac{\$4,533.90}{701,900} = .0065 \text{ or } \$6.50/1,000 \text{ gal.}$$

So how is it that the Town of Payson Water Department according to the document DRE-2 listed above, charges \$5.99 per 1,000 gallons of water and Brooke Utilities, Inc. and Payson Water Co. charged the Customer between \$6.40 and \$6.50 per 1,000 gallons of water.

According to PWC's Mdc Supplemental Water Cost Analysis-Daily Water Hauling sheet dated June 26, 2011:

- 1) What is the "Water Hauling Station Charge" of \$900.00 for?
- 2) How is it that none of these figures approved by the ACC match up with the reality of what was charged to the Customers which far exceeds all of these figures?
- 3) What happened to the 824,239 gallons of surplus water? Is there a huge leak in the system that the Company refuses to repair? Or. Did they haul the water out of Mesa del Caballo to other locations?